



Benton County Planning Board

Public Hearing

Technical Advisory Committee Meeting

August 1, 2012

6:00 p.m.

Benton County Administration Building

215 East Central Avenue

Quorum Courtroom, 3rd Floor Suite 324

Meeting Minutes

PUBLIC HEARING

Call to Order: The meeting convened at 6:00 p.m.

Roll Call: Jim Cole, Mark Curtis, Lane Gurel, Ken Knight, Starr Leyva, and Ashley Tucker were present.

Disposition of Minutes: Approval of the July 11, 2012 and July 25, 2012 meeting minutes was postponed until the next meeting.

Freedom of Information Act (FOIA) Update

County Attorney George Spence presented the Board with FOIA information, as a follow up from the recent appeals hearings. The purpose of FOIA legislation is to allow the public to see what their government is doing. Arkansas FOIA law, enacted in 1968, provides broad access, and has two aspects – (1) records and (2) meetings. The records access has limited applicability to the Planning Board, but one records matter will be addressed later. The meetings aspect is applicable to the entire Planning Board, or to any sub-committee or working group of the Board. Meetings require public notice. FOIA applies to both formal and “informal” meetings, including such things as parking lot discussions or meeting topics or Board business. Exceptions to the meeting definition include mediation and litigation. Attorney Spence pointed out that two Board members having coffee, if done on a regular basis, can be construed as an informal meeting to discuss County business and thereby require FOIA notification. Adverse publicity would be a likely result of this type of activity. E-mail “discussions” of Board business by two or more Board members or staff is considered to be an informal meeting, and subject to FOIA requirements. County e-mail accounts are subject to FOIA, and personal e-mail accounts used to conduct County business also fall under FOIA regulations. E-mails that are simply providing information are not considered meetings, but an e-mail discussion between two or more County employees/appointees is an informal meeting. Many people “double delete” e-mails (delete the e-mail from both their mailbox and the recycle bin). There is no FOIA requirement on the length of time that e-mails must be kept. The best advice on e-mails is to not put anything in an e-mail that you would not want printed on the front page of the local newspaper, and to think before you hit the “Send” button.

In discussion, Board members asked about unfounded allegations of secret meetings. Attorney Spence doubted that these allegations were actionable. A media request to correct the allegation is a possibility, but is not recommended because it keeps the adverse publicity alive. Questions about personal e-mail accounts included whether the provider (for example, Cox.net) would be subpoenaed, and whether all personal e-mail can be required. Attorney Spence stated that FOIA requests would be made, orally or in writing, to the owner of the e-mail account. Only e-mails related to the matter at hand can be requested, not all personal e-mails. Chairman Gurel asked whether the Board should set a policy to require all members to have County e-mail accounts. Attorney Spence responded that that might present a burden for some. Staff offered to set up county e-mail for all Board members.

Regarding the recent appeal hearings, Attorney Spence suggested that an appeals procedure be developed, and that the Board state reasons for project denial at the meeting where such action is taken. Staff reported that appeal administrative provisions are being drafted for an ordinance revision. Board members inquired if the appeal panel has to document the rationale for its decision. Attorney Spence believes this was done in discussion during the hearings. Chairman Gurel asked if the role of the appeal panel was to re-evaluate the merits of the proposed project, or to determine the appropriateness of the Planning Board decision. Attorney Spence responded that his belief is that the appeal should be a **de novo** process; in other words, the appeal panel should review the entire project, and render a decision based upon their review.

General Public Comment: None

Old Business: None

New Business: None

The Public Hearing meeting was adjourned.

TECHNICAL ADVISORY COMMITTEE

Old Business: None

New Business:

a. Safari Real Estate, LLC. – LSD # 12-203, JP District 11, 20948 Safari Rd., Gentry, AR 72734.

Represented by: Lewis Wilmoth, Wild Wilderness Safari Park

Staff reviewed the proposed plan for a restroom facility and additional parking. Staff recommended the following revisions to the submitted site plan:

1. In regard to site plan elements:

- a. The applicant should provide parking details on the site plan including parking surface materials.

b. The applicant should indicate handicap parking and signage on the site plan.

2. In regard to parking and access:

a. The applicant should provide updated parking calculations based on total number of estimated visitors and employees.

3. Should the applicant choose to expand any element of the park, including buildings, parking areas, and animal barns, in the future an amendment should be submitted to the Planning Board for review and approval.

Because Safari Real Estate is considered an existing nonforming use, Staff recommended that the Board agree to review only the proposed additions to the site. Mr. Curtis moved, seconded by Mr. Knight, that only the proposed improvements will be considered by the Board. Motion carried unanimously.

Board Comments:

The Board had several questions about the size of the proposed parking area, and Mr. Wilmoth indicated that the area will be used for bus parking. Only one bus at a time is expected to be parked in this 100' x 40' area. A concern was raised about the screening of the proposed restroom, citing park services that use 6' high board-on-board fencing to screen the interior of the restroom from the parking lot. Mr. Wilmoth responded that he used a state park restroom facility plan for his proposal, and he will investigate extending the wing walls toward the front door. A question was raised about whether a stamped site plan will be made available, but the Board decided this is not necessary. The applicant will supply a more concise site plan. Staff will provide a list of appropriate waiver requests to the applicant.

b. Springtown Seventh Day Adventist Church – LSD # 12-104, JP District 13, 12444 Fairmont Rd., Gentry, AR 72734. Represented by: Ray Netzell

Staff reviewed the proposed for a restroom facility with covered entry. Staff recommended the following revisions to the submitted site plan:

1. In regard to site plan elements:

- a. The applicant should provide parking details on the site plan including parking surface materials.
- b. The applicant should provide the square footage of the parking on the site plan.
- c. The applicant should indicate handicap parking and signage on the site plan.

2. In regard to parking and access:

- a. The applicant should provide updated parking calculations based on total number of estimated visitors and church members.
- b. The applicant should provide information on the delineation of the parking area.

3. Should the applicant choose to expand any element of the church grounds in the future an amendment should be submitted to the Planning Board for review and approval.

Board Comments:

The Board discussed whether the entire site should be reviewed, instead of just the proposed improvements. Concerns were expressed about why this 14-year old site was nonconforming, and why a pavilion added in 2007 did not go through large scale development review. Mr. Knight moved, seconded by Ms. Leyva, to review only the improvement being proposed. Motion carried unanimously. The Board asked about privacy screening, and the applicant agreed to consider the options that. The Board asked about whether adjacent property owners had been notified, and Staff indicated this has been done. The applicant added that no adjacent houses are visible from the church site. Staff will provide a list of appropriate waiver requests to the applicant.

Staff Updates:

- Chairman Gurel asked about the need for appeals process training. Staff stated that a special Board session will be held as soon as the regulations are completed. A comprehensive booklet with ethics, laws, bylaws and resources from the Planning Board journal will be developed.
- Regarding any follow up from the recent appeals hearings; the following comments were made:
 - Staff advised that recusals should be made promptly, as soon as any personal relationship is recognized. Recusal decisions should be done with legal counsel from the County Attorney.
 - It was noted that the appellants had access to the Justices of the Peace during the site visits, and that some negotiation was done at these visits. Staff suggested that it might be helpful to have the County Attorney participate in future appeal site visits.
 - It might be helpful to have provision for rebuttal at future appeals hearings. Staff should have been allowed to make clarifications during the recent hearings.
 - Board members discussed whether there is a means for measuring the success of the stipulated mitigations for the Nighthawk Academy project. Staff will follow up on that, and will assess whether nearby undeveloped property needs to be included in the mitigation.
- Staff reported that Justice Douglas has requested the regulations review be given a high priority, and that Planning Board members should submit any comments by August 3. The regulations draft will then be sent to all County municipalities.

Chairman Gurel noted the Board's appreciation of Staff's work on current projects.

Adjournment: 8:16 p.m.